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UNCLAS SECTION 01 OF 02 SOFIA 000522

SENSITIVE
SIPDIS

STATE FOR USTR MOLNAR, JCHOE-GROVES, EEB/TPP/IPE JURBAN,
SWILSON AND JBROGER; COMMERCE FOR SAVICH AND ITA/MAC/OIPR
CPETERS

E.O. 12958: N/A

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SUBJECT: IPR IN BULGARIA: MODEST PROGRESS ON A BUMPY ROAD

REF: 07 SOFIA 1365

¶1. (SBU) SUMMARY: The GOB continues to make progress on intellectual property rights (IPR). Industry and government are working in tandem to draft amendments to the copyright law, and the Ministry of Culture recently brokered a deal between rights holders and the tourist industry on royalties. The Ministry of Interior's Cyber Crime Unit has launched several significant raids, seizing record numbers of illegal music and movies in the first half of 2008. But, industry has effectively lost its seat on the Intergovernmental IPR Council and major IPR cases still have not made it to court. End Summary.

INDUSTRY-GOVERNMENT RELATIONS

¶2. (SBU) The Intergovernmental IPR Council continues to push through legislation and improve cooperation between enforcement bodies. It made a misstep in early spring when Deputy Minister of Culture Yavor Milushev restricted Council membership to representatives of government entities (NB: including a U.S. Embassy representative). Instead of meeting during council meetings, industry representatives now meet separately with Deputy Minister Milushev a day prior to intergovernmental meetings. Milushev then raises industry concerns with the full council the following day. Milushev took this action because he believed council meetings were becoming unmanageable and inefficient with multiple industry and rights holders' participation. He argued that the new consultative mechanism with industry would offer rights holders more opportunity to discuss their concerns directly with Milushev, the intergovernmental Council chair. Industry disagrees. Ina Kileva, Chair of the Bulgarian Association of Music Producers, is spearheading industry efforts to regain Council observer status. We support her efforts.

¶3. (SBU) Industry-government cooperation is otherwise improving. Minister of Culture Stefan Danailov recently withdrew draft amendments to the copyright law that industry firmly opposed. Now, Kileva and her association are working closely with the Ministry of Culture to formulate new draft amendments that would take a more comprehensive approach to copyright. At industry's urging, Danailov has publicly called for both wider public debate on the new draft law and improved cooperation between the government and civil sector.

¶4. (SBU) Additionally, Deputy Minister Milushev recently arranged a meeting between the Hotel Business Association (which includes 80-90 percent of all hotel and restaurant owners on the Black Sea coast) and the association that represents music composers and collects copyright fees on their behalf. Due to Milushev's efforts, the two sides settled on a Framework Agreement which will compel each hotel

and restaurant to sign an individual contract with the composers' association. In exchange for signing the agreement, these businesses will receive a discounted price on the copyright fee. Until now, these businesses had been playing music illegally.

ENFORCEMENT EFFORTS

15. (U) The Cyber Crime Unit of the Ministry of Interior continues to carry out high profile operations. It completed its biggest raid yet in January 2008, seizing a total of 25 terabytes (TB) of illegal music and movies in Dobrich (Northeast Bulgaria.) In May, the Unit searched the office of an Internet Service Provider (ISP) in Haskovo (Southeast Bulgaria) and seized a total of 6.5 TB of illegal content. On June 19, the Crime Unit made yet another large raid in Varna, seizing illegal software worth USD 200,000, 21 computer terminals, and a server. To date this year, more than 35 TB of illegal content has been seized, compared to a total 50 TB in all of 2007.

16. (SBU) Despite these successes, Cyber Crime Unit head Yavor Kolev tells us he does not have the necessary staff -- the Unit is comprised of 12 officers -- to adequately address IPR violations in Bulgaria. The MOI is currently undergoing restructuring and we are urging the GOB to dedicate the necessary resources to IPR violations.

JUDICIARY: STILL THE ACHILLES' HEEL

17. (SBU) In March 2007, the Cyber Crime Unit shut down four major torrent sites -- Arenabg.com, Zamunda.net, Data.bg and bol.bg (reftel). Bol.bg and Data.bg remain closed. The

SOFIA 00000522 002 OF 002

owners of Arenabg.com and Zamunda.net were arrested and then released by the courts after two days detention pending further investigation. Shortly thereafter, both sites reopened. Cases against the owners of the two sites are still in progress. Arenabg.com is the first torrent tracker case in Bulgaria, but its entry into court has been delayed by a technical mistake on the part of the prosecution. Arenabg.com's owner, Elian Geshev, still faces charges of "aiding and abetting" the illegal distribution of large amounts of illegal content. The case against the owners of Zamunda.net remains trapped in the investigation process. Both sites remain popular. Cyber Crime Unit efforts to shut them down permanently have been frustrated by zamunda.net's re-registration in the Netherlands and arena.bg's continuous relocation of its registration site.

EMBASSY AGENDA

18. (SBU) With courts remaining the weakest link in Bulgaria's IPR regime, we continue to encourage improved judicial performance. In addition, DOJ's regional coordinator for IPR is advising a recently-formed working group of police, prosecutors and industry representatives to address key IPR issues. First, the working group will examine whether the criminal code could be amended to allow for sampling of seized pirated goods for the creation of expert reports, as is the current practice in the United States and much of Western Europe. Second, it will examine whether Serbia's successful implementation of an expediter procedure law should be replicated in Bulgaria. This law allows police to make smaller, street-level raids of pirated goods. In exchange for immediate confession, the violator would pay an administrative fine, which acts as a disincentive for first-time offenders and does not require an expert report or lengthy trial.

19. (SBU) The Embassy and Department of Justice continue to offer IPR-related training opportunities for police and prosecutors. In March of this year DOJ participated in a government-organized workshop for police on internet crimes. Forty Bulgarian officers participated in the event, including

at least one cyber-crime officer from each of Bulgaria's 28 districts. DOJ also recently completed a two-day training session for 20 prosecutors, which included a section on electronic evidence. Of those in attendance, only one had ever previously utilized electronic evidence in a case. The Embassy is also developing an IPR-focused Volunteer Visitor Program for police and prosecutors for FY 2009.

¶10. (SBU) Comment: Bulgaria continues to make incremental progress on IPR issues, with the judiciary stuck in a stutter-step. We will continue to focus our efforts on urging better industry-government cooperation, increasing IPR enforcement capacities within the Ministry of Interior, and providing training to representatives of Bulgaria's perennial weak-spot, the judiciary.
Karagiannis